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ABSTRACT

In October 1972, questionnaires asking for information on legislation and achievements in education were sent to all State departments of education, legislative service agencies, State school boards associations, and State offices of the NEA and AFT. In most States, one or more of the organizations sent a reply. The compilation in this book is based on those replies with supplementation and expansion from information collected by ECS. Two recent U.S. Supreme Court cases invalidating certain types of aid to nonpublic schools are also included. (Author/JF)

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1972

LEGISLATION AND ACHIEVEMENTS:

NONPUBLIC EDUCATION

Regulation and State Aid
Performance Contracts
Voucher Systems

Prepared by Doris M. Ross
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Research Brief No. 7

Denver, Colorado

June 1973

Additional copies of this report may be obtained for $1.25 from the Education Commission of the States, 300 Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80203, (303) 893-5200

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State Abbreviations . . . . . Inside Back Cover

INTRODUCTION

Research Brief No. 7, devoted to legislation and achievements related to nonpublic education, is the third of a series of short reports on specific subject areas in education for 1972. This series is designed to replace the "big book" format used in previous years, and it is hoped that these smaller booklets will be easier to use and that they will provide the reader with a more definitive approach to his search for information.

In October 1972, questionnaires asking for information on legislation and achievements in education were sent to all state departments of education, legislative service agencies, state school boards associations and state offices of the National Education Association and the American Federation of Teachers. In most states (15 states either failed to reply or did not submit information on nonpublic schools; 15 states do not hold regular legislative sessions in "even" years), one or more of the organizations sent a reply. The compilation in this book is based on those replies with supplementation and expansion from information collected by ECS in an on-going effort to keep abreast of state education activity.

This report is in no way exhaustive or comparative of individual state activities involving nonpublic education; it merely presents a picture of the state scenes as reported by those organizations queried and as seen by an ECS staff review of newsletters, bulletins, special reports and legislative summaries on file.

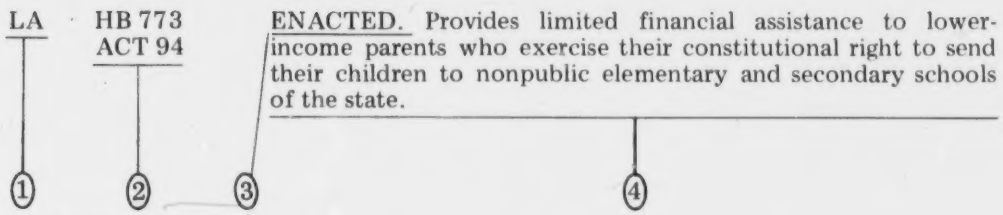
States are identified by the official two-letter postal abbreviations listed on the inside back cover. Under each category, reporting states are listed alphabetically. Legislative citations or identifying words are used after each state abbreviation; statute citations (if reported) are listed as well.

Each description of legislation begins with a capitalized word (ENACTED, FAILED, etc.) which indicates the status of the legislation as of May 1973. Other activity descriptions include the name and address (when available) of a person to contact for additional information. We have listed addresses of state departments of education and legislative reference bureaus in the back of the book, along with addresses of the national offices of the National School Boards Association (NSBA), the NEA and the AFT.

For more information on the legislation listed in this brief, write the appropriate state legislative service agency or the state department of education listed in the back of this book.

HOW TO READ ITEMS IN THIS REPORT

Sample


LA
HB 773
ACT 94
ENACTED. Provides limited financial assistance to lower-income parents who exercise their constitutional right to send their children to nonpublic elementary and secondary schools of the state.
1
2
3
4

1. State abbreviation—"Louisiana"—see inside back cover.

2. Bill number and/or statute citation. Commonly used abbreviations are listed below. Special abbreviations are explained in item description (4).

H	— House	HR	— House Resolution
S	— Senate	SR	— Senate Resolution
A	— Assembly	AR	— Assembly Resolution
HB	— House Bill	HJR, SJR, AJR	— House, Senate or Assembly Joint Resolution
SB	— Senate Bill		
AB	— Assembly Bill		
HF	— House File		
LB	— Legislative Bill	HCR, SCR, ACR	— House, Senate or Assembly Concurrent Resolution
ACT	— Act		
PA	— Public Act		
PL	— Public Law		
Ch	— Chapter		

3. Status of legislation in May 1973. Terms include: ADOPTED (for resolutions), ENACTED (for bills), FAILED, VETOED, WITHDRAWN and CARRYOVER TO 1973 (bill remains under legislative consideration during 1973 session without reintroduction or change in number).

4. Description of item.

SUPREME COURT DECISION

STATE AID TO NONPUBLIC SCHOOLS IN TWO APPEALS RULED UNCONSTITUTIONAL BY U.S. SUPREME COURT

Legislation providing direct aid to nonpublic schools in two states (New York and Pennsylvania) was invalidated on June 25, 1973, by the U.S. Supreme Court in decisions on two appeals: *Committee for Public Education and Religious Liberty et al vs. Nyquist et al (New York)*, and *Sloan, Treasurer of Pennsylvania et al vs. Lemon et al.*

NEW YORK

Financial aid programs for nonpublic elementary and secondary schools, enacted in New York, provided for direct money grants for maintenance and repair of the facilities and equipment of those nonpublic schools which served a high concentration of pupils from low-income families. Grants were based on $30 per pupil annually, or $40 if the education facilities were more than 25 years old. In addition, New York legislation provided two forms of aid to parents of nonpublic school children by establishing a tuition reimbursement plan for parents of nonpublic elementary or secondary school children with an annual taxable income less than $5,000. Fifty dollars was allowed for each grade school child and $100 for high school students; neither amount could exceed 50 per cent of actual tuition. For parents of nonpublic school children with higher taxable incomes (up to $25,000 adjusted gross income), scheduled state income tax deductions were allowed.

A district court had previously held that the tuition reimbursement grants and the maintenance and repair grants were invalid, but allowed the income tax provisions to stand. The U.S. Supreme Court, in its June 25 decision, upheld the invalidity of the first two and reversed the lower court decision on income tax provisions, thus declaring all of the New York legislation under litigation a violation of the Establishment Clause[1] and thereby unconstitutional.

The U.S. Supreme Court held that: the propriety of a legislature's purpose may not immunize from further scrutiny a law that either has a primary effect that advances religion or that fosters excessive Church-State entanglements; that the maintenance and repair provisions of the New York statute violate the Establishment Clause because their inevitable effect is to subsidize and advance the religious mission of sectarian schools; that the effect of tuition reimbursement grants would be to provide financial support for nonpublic, sectarian institutions; that New York's income tax benefits also violate the Establishment Clause because they are not restricted enough to avoid advancing the sectarian activities of religious schools; and that the New York nonpublic assistance programs carry grave potential for entanglement in the broader sense of continuing and expanding policitical strife over aid to religion.[2]

Justice Powell, joined by Justices Douglas, Brennan, Stewart, Marshall and Blackmun, delivered the opinion of the Court. Dissenting to all or parts of the opinion were Justices Burger, Rehnquist and White.

PENNSYLVANIA

Pennsylvania's appeal, *Sloan, Treasurer of Pennsylvania et al. vs. Lemon et al.*, involved the state's Parent Reimbursement Act for Nonpublic Education which provided funds to reimburse parents for a portion of tuition expenses incurred in sending their children to nonpublic schools on the basis of $75 maximum for each child in grades K-6 and $150 maximum for each child in grades 7-12. The district court had held that the law violated the Establishment Clause and permanently enjoined

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1. *"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."*
2. *Abstracted from the syllabus of the opinion.*

disbursement of any funds under the act, indicating that "more than 90 per cent of the children attending nonpublic schools in . . . Pennsylvania are enrolled in schools that are controlled by religious organizations or that have the purpose of propagating and promoting religious faith."

The U.S. Supreme Court, in its June 25 opinion, held that there is no constitutionally significant difference between Pennsylvania's tuition grant plan and New York's tuition reimbursement program and that the act is not severable (separate provisions were not made for nonsectarian schools).[3]

The opinion was delivered by Justice Powell, joined by Justices Douglas, Brennan, Stewart, Marshall and Blackmun. Dissenting were Justices Burger, White and Rehnquist.

THREE-PART TEST

The decisions on nonpublic school aid were based on a three-part test, according to the text of the New York opinion:

> ". . . the now well-defined three-part test that has emerged from our decisions is a product of considerations derived from the full sweep of Establishment Clause cases . . . to pass muster under the Establishment Clause the law in question, *first*, must reflect a clearly secular legislative purpose . . . *second*, must have a primary effect that neither advances nor inhibits religion . . . and *third*, must avoid excessive government entanglement with religion." (emphasis supplied)

Arguments in the dissenting opinions were based, in significant part, on the Court's interpretation of *primary effect;* dissenting justices felt that parts of the legislation in both cases did *not* have a *primary* effect that advanced religion. Dissenters also noted that other forms of state aid to religion are permitted; i.e. church property tax exemptions and income tax deductions for contributions to religious institutions.

STATES PROVIDING NONPUBLIC AID

According to his dissent issued on the New York case, Justice White, joined by the Chief Justice and Justice Rehnquist, stated that New York and Pennsylvania, combined with Illinois, California, Ohio, New Jersey, Michigan and Massachusetts, account for 62 per cent of the country's nonpublic school students. These and eight additional states have enacted direct aid legislation which may be affected by the Supreme Court decisions of June 25.

Footnoted information in the dissent, based on *State Aid to Nonpublic Schools*, a publication of the department of special projects, National Catholic Education Association, indicates that 33 states in all, including some of the 16 states now providing direct aid to nonpublic schools, offer auxiliary services or benefits. Categories of nonpublic school assistance in these states include other parental grants or reimbursement schemes, dual enrollment, tax credits, leasing of nonpublic school facilities by public school systems, education opportunities for rural students, innovative programs, exemption from state sales tax for education and janitorial supplies, transportation, textbooks and instructional materials, health and welfare services, driver education, services for educationally disadvantaged children, school lunches, released time, vocational education, central purchasing of supplies and participation of lay teachers in nonpublic schools in public school teachers' retirement fund scheme.

Nineteen states have constitutional or statutory barriers to any kind of direct aid to parochial schools.

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3. Abstracted from the syllabus of the opinion.

REGULATION AND STATE AID

AL	HB 627	FAILED. Would have provided tuition grants to resident students of Alabama who are attending private accredited colleges or universities in Alabama.
AL	HB 1512	FAILED. Would have made a conditional appropriation for funding and administering tuition grants to resident students attending private colleges in Alabama.
AL	SB 40 ACT 87	ENACTED. (Third Special Session) Provides that private schools offering correspondence courses shall meet certain requirements. 1971.*
AK	CSHB 549 Ch 156	ENACTED. (Committee Substitute, Amended) Provides tuition grants to Alaska students enrolled in degree programs in private Alaska colleges or universities in an amount up to the difference between the per-pupil operational cost and the tuition a pupil pays at a state institution; tuition grants may not exceed $1,400 per pupil per year. Effective July 1, 1972.
AK	HB 621 Ch 157	ENACTED. (Amended) Requires the state department of education or school districts to provide bus transportation to students attending nonpublic schools when such transportation is provided for public school students in the district and when the children must travel distances comparable to, and over routes the same as, those over which the public school students are transported.
AZ	HB 1106	FAILED. Was in regard to the loan of teachers, equipment, etc. to private schools.
AZ	SB 1106	FAILED. Would have authorized the granting of state aid to nonpublic schools, subject to such schools meeting certain requirements.
AZ	SB 1161	FAILED. Would have provided for a state income tax credit for education costs of pupils in nonpublic schools.
CT	HB 5330 PA 104	ENACTED. Provides for a grant to parents of nonpublic school children to defray the cost of education. The act provides $75 scholarships to children in grades K-8 and $150 to children in grades 9-12.
CT	SB 570 PA 653	ENACTED. Makes it mandatory rather than optional that any town, city, borough or school district provide for its children attending private schools the same kind of transportation provided for its children attending public schools. Reimbursement is same for both public and private schools. 1971.*

**Not previously reported.*

DE	SB 525 Ch 544	ENACTED. Defines and controls private business and trade schools.
DE	HB 850	FAILED. Would have provided state income tax credit for parents of nonpublic school students.
FL	CSHB 3117	ENACTED. Redefines "nonpublic colleges" by deleting the requirement that such colleges' credits or degrees must be accepted by at least three accredited institutions of higher learning and provides that funds received for such colleges shall be deposited in, and appropriations made from, the general revenue fund.
GA	SB 411 ACT 854	ENACTED. The Georgia Proprietary School Act authorizes the state board of education and the state superintendent of schools to regulate proprietary schools; provides for certificates of approval and the registration of representatives of proprietary schools; provides that certain acts shall be unlawful; creates the Proprietary School Advisory Commission.
ID	HJR 35	ADOPTED. Proposed a constitutional amendment to allow public funds appropriated for school transportation to be used by sectarian or religious schools. FAILED on November 1972 ballot.
ID	SB 1356	ENACTED. Relates to registration and certificate of compliance for correspondence and other private courses by providing that the state board of education may require a policy of refunds to be established by the applicant and may revoke a certificate due to misrepresentation in an application; relates to soliciting and selling courses by providing an increase in the surety bond from $1,000 to $10,000 and providing necessary wording for clarification of meaning when permit to solicit shall be revoked.
IL	SB 1489 PA 77-1890	ENACTED. The "Nonpublic State Parental Grant Plan for Children of Low-Income Families Act." Provides state grants, equal to the amount of per-pupil state aid given for public school pupils who attend nonpublic schools and who are members of low-income families with an annual income of $3,000 or less, or on AFDC. Application for grant is made to superintendent of educational services region. Act to be administered by the superintendent of public instruction. Payments made semiannually to parent and nonpublic school, jointly.

IL	SB 1492 PA 77-1891	ENACTED. The "Nonpublic State Parental Grant Act": provides state grants to parents of children in nonpublic schools for textbooks and auxiliary services (e.g. school medical care, guidance and counseling, psychologist services) furnished by public school districts to nonpublic school pupils. Application for grant is made by parent to the local public school district which receives state grant payments. Act is administered by superintendent of public instruction.
IA	HF 488	FAILED. Related to the transportation of nonpublic school children.
IA	HF 1273	ENACTED. Subjects trade and vocational schools, except barber and cosmetology schools, to the law regulating advertising and sale of courses of instruction, unless the school files a $50,000 bond or files a statement showing its net worth to be not less than five times the amount of the bond required; increases penalty for violations.
IA	SJR 5	FAILED. A joint resolution proposing to amend Article 9 of the constitution of the state of Iowa to empower the general assembly to appropriate state funds to, and provide for, the use of public funds by private schools.
KS	HB 1782	FAILED. Would have authorized unified school districts to assign teachers to privately owned and operated schools when the private school is in danger of closing due to financial reasons with the result of transferring its students to public schools. The act authorized a tax levy by which such a district could provide funds therefor.
KY	HB 406	ENACTED. Relates to the regulation of proprietary schools; declares provisions herein are for the improvement of occupational education programs; requires proprietary schools to obtain certificates of approval from the state board of education; establishes fees, bonds and qualifications and minimum standards for certificates of approval; makes other provisions.
KY	HB 419	VETOED. Would have allowed up to $10 state income tax credit for tuition paid at a private or public elementary or secondary school.
KY	HB 599 SB 353	FAILED. Would have appropriated $265,000 in each of the next two fiscal years to the Kentucky department of libraries for purchases of texts to be loaned to grades 1-8 parochial and private students.

KY	SB 306	ENACTED. Defines "drug dependent," "hot line" and "DATE" (Drug Abuse Treatment and Education) Center; requires the department of mental health to license private DATE centers and to establish guidelines for their operation, etc.
KY	SB 315	ENACTED. To give recognition and approval to bona fide colleges and universities and to protect citizens against agencies and institutions resorting to fraudulent practices and sub-standard programs, defines terms and exceptions, directs the state board of education to adopt standards and procedures for licensing on recommendation of the council on public higher education, requires colleges and universities to be licensed; emergency.
LA	HB 529 ACT 544	ENACTED. Amends prior law designating special education centers located in colleges and universities as the "competent authorities" for psychological and educational diagnosis and evaluation of handicapped children in the public schools which provides for the assignment of children only upon recommendation by the centers or by other agencies or persons approved by the state department of education. Deletes qualifying phrase "in the public schools." Adds a provision that assignment of children may be special education or training.
LA	HB 772 ACT 93	ENACTED. Provides credit against the individual income tax for tuition paid for the elementary or secondary education of dependents.
LA	HB 773 ACT 94	ENACTED. Provides limited financial assistance to lower-income parents who exercise their constitutional right to send their children to nonpublic elementary and secondary schools of the state.
LA	HB 843 ACT 311	ENACTED. Creates the Advisory Commission on Proprietary Schools and provides for the licensing and regulation thereof with the following provisions: defines proprietary schools as any business enterprise operated for a profit or on a nonprofit basis maintaining a place of business within this state, or selling or offering for sale any course of instruction in this state, by correspondence using the mails or by any other means of communication, or by personal solicitation, or at which place of business such a course or courses of instruction or study is available through classroom instruction, or both, to train or prepare a person for a field of endeavor in a business, trade, technical or industrial occupation; makes exclusions. Establishes in the state department of education an advisory commission on proprietary schools, delineates composition of same and establishes powers and duties to include licensing, bonding and regulation of defined proprietary schools. Makes other provisions.

MD	HB 791	ENACTED. To integrate a presently uncodified law into the annotated code relating to contracts of enrollment in nonpublic schools.
MD	HB 888	FAILED. Would have limited the amount of tuition or payment that a trade or technical school operated for profit could charge a person who drops out of a course or fails to enroll in a course after signing a contract.
MD	SR 126	FAILED. Expressed concern over the financial crisis engulfing the Catholic Archdiocesan schools of Baltimore City and the resultant school closings.
MA	H 4270	FAILED. Would have provided that certain private schools maintaining attendance records be reimbursed by the Commonwealth.
MA	H 4476	NO REPORT. (Study Order) A bill, providing for the Commonwealth to reimburse private schools for expenses incurred in connection with special testing programs, was placed into study order. Since no report was issued by the end of the year, the legislation has automatically FAILED.
MA	H 5743	POCKET-VETOED. Would have provided the same special education and training to pupils attending private schools as are provided to pupils in the public schools.
MA	H 5913	NO REPORT. (Study Order) H 310, to provide state aid for certain private institutions of higher learning, was placed into study order H 5913. Since no report was issued by the end of the year, the legislation has automatically FAILED.
MA	H 6020	ADOPTED. A resolution requesting Congress to call a convention for the purpose of amending the U.S. Constitution to authorize financial aid to private schools. 1971.*
MI	SB 602 PA 284	ENACTED. Mandates, among other things, that any corporation which proposes to operate for educational purposes shall state such purposes and shall comply with all requirements of the General Corporation Act.
MS	HB 507	ENACTED. Provides for the registration of certain schools, colleges and institutions or businesses engaged in offering instruction to the general public for a fee or tuition; to provide for the regulation of such schools; to establish the Mississippi Commission of School and College Registration; and for related purposes.

**Not previously reported.*

MO	HB 39	FAILED. Would have licensed and regulated certain proprietary schools. Administration of the act would have been vested in the state board of education and the state commission of education.
MO	HB 219	FAILED. Would have provided auxiliary services and special education programs to nonpublic school pupils on an equal basis with those enrolled in public schools.
MO	HB 246	FAILED. To grant resident individual taxpayers a credit against tax otherwise due for the amount of educational expense paid by the taxpayer during a taxable year to any nonpublic nonprofit elementary or secondary school in this state in his behalf or in behalf of his spouse or dependents or in behalf of any resident of this state 21 years of age or under.
MO	HB 389	FAILED. Would have provided payments to parents for educational expenses of children attending nonpublic schools.
MO	HB 1186	FAILED. Would have provided tax credit for tuition paid for children in private schools.
MO	HJR 13	FAILED. Proposed a constitutional amendment to allow taxes to be collected for public or *educational purposes* only. This would allow tax moneys to be expended in support of nonpublic schools.
MO	HJR 14	FAILED. Proposed a constitutional amendment to grant the general assembly the authority to provide funds for the support and maintenance of private or parochial schools, academies, colleges, universities or other institutions of learning within the state which contribute to the education of the people of this state.
MO	HJR 15	FAILED. Proposed a constitutional amendment to allow public funds to be spent for educational purposes in support of nonpublic schools.
MO	HJR 16	FAILED. Proposed a constitutional amendment to allow appropriations of money by the general assembly for education (striking "public") and to aid education and institutions of learning.
MO	SB 27	FAILED. Would have extended auxiliary services and special education programs for all school-age children to those attending nonpublic schools.

MO	SB 46	FAILED. Would have provided for dual enrollment of those between the ages of 7 and 16 years. (Public school districts would be eligible to receive state aid for less than full-time attendance of pupils under regulations established by the state board of education.)
MO	SB 627	FAILED. Would have required public funds to be used for educating handicapped children in nonpublic schools.
NB	LB 656	ENACTED. A constitutional amendment to provide that federal funds may be allocated to nonpublic schools by terms of the federal grant.
NJ	A 289	CARRYOVER TO 1973. Designated "Nonpublic Pupil Assistance Law of 1972," would provide for grants to assist in securing, for certain pupils, equivalent instruction in approved nonpublic schools.
NJ	A 987	CARRYOVER TO 1973. Designated the "Independent College Opportunity Act," would provide for grants to independent colleges and universities for educational services for state residents.
NJ	A 2544 Ch 336	ENACTED. Designated the "Nonpublic Elementary and Secondary Education Act," provides financial assistance to the parents of children attending nonpublic schools. Was declared unconstitutional by Federal District Court; may move on to Supreme Court.
NJ	S 168	CARRYOVER TO 1973. Would authorize financial assistance to the parents of children attending nonpublic schools: $75 for each student attending grades kindergarten through 8, $150 for those attending grades 9 through 12.
NJ	S 865 Ch 67	ENACTED. Designated the "Independent Colleges and Universities Utilization Act," provides for grants to eligible independent colleges and universities for educational services to the state; appropriates $7,050,000. Effective July 1, 1972.
NJ	S 2331	FAILED. Designated the "Nonpublic Elementary and Secondary Education Act of 1972," would authorize financial assistance to the parents of children attending nonpublic schools: $75 for each student attending grades kindergarten through 8, $150 for those attending grades 9 through 12. 1971.*

**Not previously reported.*

NY	S 880 A 1631	FAILED. Would have permitted school districts to provide nonsectarian courses to nonpublic pupils upon parent request on a shared-time basis.
NY	S 7374 Ch 113	ENACTED. Allows boards of cooperative educational services to provide educational data processing services to nonpublic schools.
OH	HB 1203	ENACTED. (Amended) Allows a credit against the state income tax for private schooling costs and for certain kinds of special training and instruction. The credit would be $90 per child for the 1971-72 and 1972-73 school years and, as school foundation payments per public school pupil increase, automatically increasing to a ceiling of 50 per cent of the total state, local and federal expenditures per pupil for current expenses in the public schools.
OH	NOTE:	A bill that distributed nonpublic school aid to local school districts, which in turn distributed parental grants and payments for services and materials, was passed. Parental grants for the 1971-72 and 1972-73 school years were to be $90 per pupil or 40 per cent of the cost of educating a public school pupil in the school district, whichever was less. The law was declared unconstitutional by the United States District Court, Southern District, Eastern Division, in the case of Wolman vs. Essex, April 17, 1972.
OK	SB 482	ENACTED. Relating to license for operation of private school: to provide renewal license fee to be the same as original license fee ($100) and to increase renewal fee for private school solicitor's permit to $25 (same as fee for original permit).
PA	HB 1020 ACT 273	ENACTED. Increases state (75 per cent) and school district (25 per cent) reimbursement to private schools for exceptional children from $4,200 per year to $5,500 per year for tuition and maintenance; for day students: $4,125 per year for deaf or blind students; $3,500 per year for cerebral-palsied and/or brain-damaged and/or muscular-dystrophied students; $3,300 per year for socially and emotionally disturbed children.
PQ	HB 1480 ACT 372	ENACTED. Provides for transportation of pupils attending nonpublic schools and also provides for reimbursement by the Commonwealth to school districts for transportation of pupils in areas where walking is hazardous. This legislation was approved on Nov. 30, 1972, by 147 to 28 and sent to the governor. The legislation moved through the general assembly once, but was recalled to attach revenue sharing funding. The nonpublic school measure should cost an estimated $15 million annually in state money, together with another $15 million supplied by local school districts. The bill extends to nonpublic school pupils the same transportation rights as public school students.

PA	HB 2151 ACT 194	ENACTED. Provides for auxiliary services for the benefit of resident children attending nonpublic schools in the Commonwealth. The act includes kindergarten through grade 12. The intermediate unit is the responsible agency for providing these services. They include guidance, testing, psychological services, services for exceptional children, the disadvantaged, English as a second language, other nonideological and counseling. The secretary of education shall apportion to each intermediate unit an amount equal to the cost of providing such services based on the enrollment as of Oct. 1 times $30 per pupil. (Litigation contemplated.)
PA	HB 2152 ACT 195	ENACTED. Provides for the loaning of textbooks and the furnishing of materials and equipment for the benefit of children attending nonpublic schools in the Commonwealth. The textbook loan referenced under this act will be administered directly by the Pennsylvania Department of Education. Under its provisions, the secretary of education shall purchase textbooks to the extent of $10 per pupil per school year multiplied by the number of children enrolled in such nonpublic school on the first day of October of each year. Act 195 makes provision for nonpublic school officials to request from intermediate units the loan of instructional materials and equipment for use by nonpublic school pupils. The total cost for such items in any school year shall not exceed $25 multiplied by the number of children enrolled in such nonpublic school on Oct. 1, 1972. (Litigation to challenge constitutionality is currently under way.)
PA	NOTE:	ACT 92, a 1971 Parent Reimbursement Act for Nonpublic Education, provided for tuition reimbursement payments to parents for children attending nonpublic schools. For children enrolled in grades kindergarten through 6, tuition reimbursement was a maximum of $75; grades 7 through 12 were to receive reimbursement of $150. In September of 1971, a suit was filed in the 3rd District Federal Court (Philadelphia). A decision rendered on April 6, 1972, declared the act unconstitutional. The Commonwealth is appealing this decision.
SC	ACT 1635	ENACTED. A constitutional amendment to allow indirect aid to private schools. (Approved by voters November 1972, ratified 1973).
SC	H 3206 ACT 1430	ENACTED. Relates to the state commission on higher education, so as to provide for the composition of the commission and to provide for the creation of the advisory council of private college presidents.
SD	SB 241	FAILED. Would have provided education cost allowances to taxpayers of students attending nonpublic schools in South Dakota.

TN	HB 1496 SB 1769	FAILED. Stated that commissioner of education could require private schools to comply with all Tennessee laws.
TX	HB 333	ENACTED. Texas Proprietary School Act: provides for certification and regulation of proprietary schools in Texas.
VA	SB 145	ENACTED. Requires that private schools for handicapped persons be licensed.
WV	S 14	FAILED. Would have provided assistance to parents of nonpublic school children: $75 per year to parents of elementary school children and $150 per year to parents of secondary school children.

PERFORMANCE CONTRACTS

AZ	HB 2039	FAILED. Would have authorized the governing board of common and high school districts to arrange for performance contractors to provide instruction to pupils in their schools.
FL	NOTE:	Performance contract involving Office of Economic Opportunity and Duval County Schools. Federal support. Contact: Dr. Cecil Hardesty, Superintendent, Duval County Schools, 508 Duval County Court House, Jacksonville, Fla. 32202.
HI	NOTE:	A study of performance contracting was undertaken by the Research and Planning Office mainly in the belief that the department of education should examine developments which have the potential to accelerate and strengthen the thrust to achieving greater accountability in education matters in Hawaii. It was also undertaken in response to a legislative resolution (HR 394) for a study of performance contracting and its possible use in our school system. The study, completed in September 1971, recommended that the department neither accept nor reject performance contracting at this juncture. It further recommended monitoring the 100 school districts then experimenting with performance contracting. The board of education accepted the recommendations of the study. Contact: Dr. Kellet I. Min, Director, Planning Services, Office of Research and Planning, State Department of Education.
KS	HB 1405	FAILED. Would have enacted and established a fund for the purpose of state purchase of secular educational service in the areas of math, foreign language, language arts, physical science, business education and physical education for nonpublic schools.
KS	SB 600	ENACTED. In complying with the legislative mandate concerning special education course or programs, a school district board of education is permitted to contract with any appropriate accredited private nonsectarian nonprofit corporation for such students—if there are no public schools in the state with the necessary facilities which will accept the student. Prior to agreement on any such contract, the curriculum provided by the school and the proposed contract must be approved by the state board of education. The school district may agree to pay for students under such a contract at a rate of not more than three times the preceding year's per-pupil operating cost of the school district. Any student being educated in a program operated by a private nonsectarian nonprofit corporation is to be considered a pupil of the contracting school district for purposes of state and county aid or other financial assistance available to the school district.
KY	HB 85	FAILED. Would have allowed boards to contract for services not otherwise available for exceptional children.

KY	SB 39	ENACTED. Relates to one of the broad goals of the state task force for exceptional children. This goal of improving the quality and quantity of related services to exceptional children permits local boards of education to contract to provide related services to exceptional children and their families when the desired services are not available through a public or private agency.
LA	HB 835 ACT 368	ENACTED. Defines and fixes the duties of the state department of education, the state board of education and parish and city school boards with respect to the education and training of children needing special education and training. Many provisions, including authorization for parish and city school boards to contract with other public schools, the state department of hospitals or private schools or facilities for educational and training services.
MA	NOTE:	Relative to S 1415 of 1970: The opinion of the justices of the Supreme Judicial Court states that a proposed cut providing for purchase of educational service from nonpublic schools is unconstitutional under Article 46 of the Amendments (1278 of 1970).
MI	SB 552 PA 297	ENACTED. To permit a local or intermediate school district board to enter into contractual arrangements including the leasing of school sites or a portion thereof, with business and industrial firms to provide secondary vocational education programs. Such programs shall be subject to the approval of the Michigan Department of Education and shall not be permitted in a school district of the first class.
MI	PROJECT	Performance Contract Learning Project in Coldbrook School, Grand Rapids Public Schools. To provide a better educational model for programming for the educable mentally handicapped student. Project Director: Mr. Robert A. Whitecraft, Coldbrook School, 1024 Ionia NW, Grand Rapids, Mich. 45903.
MI	NOTE:	Michigan State Department of Education has prepared a planning guide to Guaranteed Performance Contracting.
PA	PROJECT	A contract with the Addressograph-Multigraph Corporation to provide an individualized instructional program to adults for one year. This will be done at the John F. Kennedy Center and the contracted services include individualized instruction, a placement program service on all equipment and a followup. Postsecondary level. Under Vocational Education Amendments of 1968. Contact: Dr. William T. Kelly, John F. Kennedy Skill Center, 734 Schuylkill Ave., Philadelphia, Pa. 19146.

PA	PROJECT	In order to provide vocational instruction to those who are interested in cosmetology at New Brighton School District, a contract between the school and Balzer's Beauty School was negotiated. This allows the student to complete his academic training at the home high school and attend the private school for purposes of obtaining a professional license as a beautician upon graduation. Secondary level. Supported under Vocational Education Amendments of 1968 funds to school districts who contracted with the private school for these services. Contact: Dr. William T. Seffiro, Superintendent, New Brighton Area School District, 823 Third Ave., New Brighton, Pa. 15066.
SD	HB 851	ENACTED. Provides a formula whereby a state school district may find the number of classroom units to which it is entitled for purpose of receiving state general support and equalization support funds when such state school district contracts for educational services with an out-of-state school district.
TX	PROJECT	Turnkeyed Taft Reading Program: Taft Independent School District contracted with Education Turnkey Systems, Inc. to compare the cost-effectiveness of the Turnkey reading program and the Alpha reading program. The findings indicated that though the cost per pupil of the Turnkey reading program was greater than that of the Alpha reading program, the cost per unit of achievement of the Turnkey reading program was less than that of the Alpha reading program. Grades 1, 2, 3, 7, 8, 9. Federal support. Contact: Ernest Chambers, Director, Planning Resources, Texas Education Agency.
TX	SB 189	ENACTED. The board of trustees of a school district may contract with another school district or with a public or private school which is regulated by the state, as designated in the state plan for vocational education to provide vocational classes for students in the district.

VOUCHER SYSTEMS

CA	SB 120	FAILED. Would have authorized the establishment of a five-year experimental voucher program under which tuition vouchers provided to the parents of children participating in the program would be redeemable at any public or private school.
CT	HB 5457 PA 122	ENACTED. Permits up to six school districts to apply for HEW funding for experimental scholarship programs in the school systems. Commonly referred to as the voucher system, this reimbursement provides greater parental choice of the school to which they prefer to send their children. Each parent receives a monetary "voucher" which may only be redeemed for educational purposes at schools fulfilling the requirements established.
DE	HB 689	STRICKEN FROM CALENDAR. (Amended House) Would have established a statewide voucher system for all pupils allowing them to attend the school of their choice anywhere in the state.
HI	NOTE:	The office of research and planning of the state department of education examined the applicability of the voucher system to Hawaii in August 1971. In short, it was recommended that the department be a keen observer of the voucher experiment but not a participant at this time. Contact: Dr. Kellet I. Min, Director, Planning Services, Office of Research and Planning, State Department of Education.
KS	SB 306 HB 2134	FAILED. Would have provided for a voucher system in computing state aid, authorizing the state board of education to approve and transmit such vouchers, providing a formula for the computation of such aid: $300 per student, subject to the compulsory attendance law in a school teaching courses required by the state board of education for public schools.
MD	NOTE:	In its 1971 session, Maryland passed a voucher-type public aid to private education bill. This was subsequently petitioned to referendum and was on the November ballot, where it FAILED.
MA	H 5910	NO REPORT. (Study Order) H 2950, to authorize school districts to adopt tuition voucher systems of education, was placed into Study Order 5910. Since no report was issued by the end of the year, the legislation has automatically FAILED.
MA	NOTE:	Relative to H 5803 of 1970: The opinion of the justices of the Supreme Judicial Court stated that voucher payment schemes for education of pupils in private schools are unconstitutional in Massachusetts under Article 46 of the Amendments to the Constitution of Massachusetts, but okay for public schools.

VOUCHER SYSTEMS
1972

MO	HB 1385	FAILED. Would have provided for voucher reimbursement for general expenses of pupils in nonpublic schools from general revenue.
MO	SB 520	FAILED. Would have provided voucher plan for private school pupils.
NJ	A 1070	CARRYOVER TO 1973. Would abolish financial assistance to parents of children attending nonpublic schools.
NY	NOTE:	A study of voucher systems was completed in 1970, but no resulting legislation has been considered or introduced through the 1972 session.
OH	STUDY	An Ohio legislative service commission staff study was conducted on education vouchers designed to explain concept and some alternative proposals to legislators. Contact: Mrs. Carol Drews, Legislative Service Commission.
TN	HB 2358 SB 2050	FAILED. Would have provided for voucher system in computing state aid. State board of education to approve and transmit vouchers.
TX	HSR 50	ADOPTED. (House-Senate Resolution) Creates an interim committee to study the feasibility of instituting a voucher system of school financing in Texas and to prepare plans for a pilot project employing such a system. Report was due to the 1973 legislature, but committee was not appointed.
WV	H 912	FAILED. Would have provided voucher assistance for nonpublic elementary and secondary students for the first two years of education beyond the high school diploma.
WI	NOTE:	A study of the use of the voucher system for elementary and secondary education was conducted by the legislative interim education committee. Contact: Miss Bonnie Reese, Executive Director, Legislative Counsel.

APPENDIX

SURVEY INSTRUMENT

The survey instrument for collecting information to be used in this and forthcoming research briefs on education legislation and achievements in the states for 1972 was released in seven two-page parts in a single mailing to state departments of education, legislative councils, state offices of the National School Boards Association, state offices of the National Education Association and state offices of the National Education Association and state offices (where existent) of the American Federation of Teachers. The sample on the following page is a composite diagram showing the general format.

Page 1 of the form asked for information on passed or proposed legislation; page 2 asked for information on projects, commissions and studies. The seven topics were listed as follows:

ACCOUNTABILITY/ASSESSMENT, including but not limited to Statewide Education Goals, Assessment Programs, Statewide Testing Programs, Management by Objectives, Program-Planning-Budgeting Systems, and Community/School Advisory Programs.

DRUG EDUCATION, including but not limited to Teacher Training Programs, Community Involvement Programs, and Student Programs.

GOVERNANCE, including but not limited to Collective Bargaining, Teacher Tenure, Teacher Aides/Paraprofessionals, Differentiated Staffing, Teacher Evaluation Programs, School District Reorganization, and Changes in State Board Structure, Regents, Higher Education, etc.

INNER CITY TEACHING, including but not limited to Inservice Training, Higher Education Programs, On-the-Job Training, and Special Salary Schedules.

PERFORMANCE CONTRACTING, including but not limited to Private/Profit Groups, Teacher Organizations, Fixed Price Contracts, Turnkey Contracts, Remedial or Special Programs, and Adult/Vocational Programs.

VOUCHER EDUCATION, including but not limited to Statewide Programs, Pilot/Demonstration Programs, Private/Parochial Schools, Tax Credit Plans, and Direct Payment Plans.

YEAR-ROUND SCHOOLS, including but not limited to Extended School Year, Changes in Attendance Legislation, and Four-Day School Week.

Future Research Briefs will cover all of the areas listed above, but not necessarily in those groupings.

SURVEY OF THE STATES

EDUCATION COMMISSION OF THE STATES . . . 1860 Lincoln . . . Suite 300 . . . Denver, Colorado 80203 . . . Education Legislation Survey
Department of Research and Information Services October 1972

STATE _____

Page 1 of 2-part form
INSTRUCTIONS: Please list any legislation which was either passed or proposed in the area of (see list, preceding page) or a related subtopic since September 1971. Use reverse side and/or additional pages as necessary.

TOPICS: (See list, preceding page)

_____

_____

BRIEF DESCRIPTION OF LEGISLATION	NUMBER OF BILL OR STATUTE CITATION Please enclose copies if possible

Page 2 of 2-part form
INSTRUCTIONS: Please list any projects, commissions or studies which are under way or have been completed in the area of (see list, preceding page) or a related subtopic since September 1971. Use reverse side and/or additional pages as necessary.

TOPICS: (See list, preceding page)

_____

_____

BRIEF DESCRIPTION OF PROJECT, COMMISSION OR STUDY	EDUCATION LEVEL	FUNDING SUPPORT (Federal, State, Local, Foundation)	NAME AND ADDRESS of Person to Be Contacted for Additional Information

STATE EDUCATION AGENCIES

ALABAMA
LeRoy Brown
Superintendent of Education
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State Department of Education
Little Rock 72201

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Commissioner of Education
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Denver 80203

CONNECTICUT
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Commissioner of Education
State Department of Education
Hartford 06115

DELAWARE
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Superintendent of Public Instruction
State Department of Public Instruction
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Effective Aug. 15, 1973

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LOUISIANA
Louis Michot
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State Department of Education
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State Department of Education
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Administrative Legislative Reference Service
California State Library
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COLORADO Legislative Council
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CONNECTICUT Office of Legislative Research
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STATE ABBREVIATIONS

AL	Alabama	MT	Montana
AK	Alaska	NB	Nebraska
AZ	Arizona	NV	Nevada
AR	Arkansas	NH	New Hampshire
CA	California	NJ	New Jersey
CO	Colorado	NM	New Mexico
CT	Connecticut	NY	New York
DE	Delaware	NC	North Carolina
FL	Florida	ND	North Dakota
GA	Georgia	OH	Ohio
HI	Hawaii	OK	Oklahoma
ID	Idaho	OR	Oregon
IL	Illinois	PA	Pennsylvania
IN	Indiana	RI	Rhode Island
IA	Iowa	SC	South Carolina
KS	Kansas	SD	South Dakota
KY	Kentucky		
LA	Louisiana		
ME	Maine		
MD	Maryland		
MA	Massachusetts		
MI	Michigan		
MN	Minnesota		

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Education Commission of the States

The Education Commission of the States is a nationally organized forum for educational cooperation. It was formed by state action in 1965 and today has 48 member states. Its goal is to further the working relationships among state governments, educational leaders and the lay public. Its purpose is to help state policymakers shape effective programs of education from early childhood through adulthood. To this end, the Commission provides services in all areas of education. Each member state has seven votes on the Commission's governing body, which establishes policy for the operation of the Commission. Additional information about the Commission and its publications may be obtained from the Commission Offices, which are located at 300 Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80203.